

Docket Nos: 10-0090,
10-0091, 10-0095,
10-0096.

R.O.M.: 5/25/10

Deadline: 6/2/10

M E M O R A N D U M

TO: The Commission

FROM: Leslie Haynes, Administrative Law Judge

DATE: May 14, 2010

SUBJECT: North Shore Gas Company and The Peoples Gas Light and Coke Company

Petition pursuant to Section 19-140 of the Public Utilities Act to Submit an On-Bill Financing Program.

Commonwealth Edison Company

Approval of the On-Bill Financing Program pursuant to Section 16-111.7 of the Public Utilities Act.

Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS and Illinois Power Company d/b/a AmerenIP

Petition for Approval of On-Bill Financing Program.

Northern Illinois Gas Company d/b/a Nicor Gas Company

Application pursuant to Section 9-201 and Section 19-140 of the Illinois Public Utilities Act for consent to and approval of Rider 31, On-Bill Financing Program and related changes to Nicor Gas' tariffs, and approval of the Energy Efficiency On-Bill Financing Program.

RECOMMENDATION: Enter the Attached Orders.

On July 10, 2009, the Governor signed Senate Bill 1918 into law creating Public Act 96-0033 ("SB 1918"). SB 1918 added to the Act, among other additions, Sections 16-111.7 (the "Electric OBF Law") and 19-140 (the "Gas OBF Law"), requiring electric and gas utilities, respectively, serving more than 100,000 customers on January 1, 2009, to create programs that "will allow utility customers to purchase cost-effective

energy efficiency measures with no required initial upfront payment, and to pay the cost of those products and services over time on their utility bill.” 220 ILCS 5/16-111.7(a); 220 ILCS 5/19-140(a).

These proceedings involve the petitions for approval of the OBF Programs filed by North Shore Gas Company and The Peoples Gas Light and Coke Company (“NS/PGL”) (Docket 10-0090), Commonwealth Edison Company (“ComEd”) (Docket 10-0091), Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS and Illinois Power Company d/b/a AmerenIP (“Ameren”) (Docket 10-0095), and Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor”) (Docket 10-0096), pursuant to Section 19-140 and Section 16-111.7 of the Public Utilities Act (“Act”). 220 ILCS 5/19-140, 220 ILCS 5/16-111.7.

The Administrative Law Judge’s (“ALJ”) Proposed Orders were issued on April 16, 2010. The Briefs on Exceptions (“BOE”) were filed on April 28, 2010. The Replies to Exceptions (“RBOE”) were filed May 3, 2010. The Orders will be on the agenda for the May 25th ROM. The deadline for Commission action in these dockets is June 2, 2010.

The only substantive change in the Orders is that it determines that if any taxes are found to apply to the loan payments, those taxes would be recovered from the individual and not through the energy efficiency rider. This change was made based on the explanation given by Peoples Gas as to how the taxes are calculated. Otherwise, there are only minor changes and the organization of the conclusions in the Orders have been changed to follow the outline of the statute.

There are many small issues that are similar in all four dockets. The AG requested oral argument on three issues: Budget Cap, Underwriting Criteria and Security Interest. The following is a brief discussion of the issues for oral argument as well as a few others of interest.

Budget Cap

In order to implement these OBF programs, utilities will incur costs and they have provided preliminary estimates of what the costs will be. These estimates are informational only and approval is not sought, nor given, for the estimated budgets.

As noted in the Orders, the utilities are entitled to recover all prudently incurred expenses through their energy efficiency riders. The riders include annual filings to determine the prudence of costs and to ensure that the proper amounts have been recovered from ratepayers. The statutory language is clear and unambiguous and, thus, imposition of a cap would be contrary to the express language of the statute.

Underwriting Criteria

The OBF program allows utility customers to purchase energy efficient measures (such as refrigerators or furnaces) from vendors and finance the measures through a financial institution. The statute directs the chosen financial institution to utilize credit checks or other appropriate measures to limit credit risk.

CUB proposes that utility bill payment history be utilized to check the credit-worthiness of participants. The AG proposes a tiered methodology where smaller loans

would be determined based on bill payment history and larger loans would be subject to another, as yet undefined, methodology that wouldn't unreasonably raise costs.

The Orders leave this decision to the FI, recognizing that the FI will have the necessary expertise. Also the Orders note that it is in the best interest of ratepayers that only credit-worthy customers participate, because any unpaid loans will be recovered from all ratepayers through the utilities' uncollectible riders.

Security Interest

Pursuant to the statute, the utilities have the right to retain a security interest in the energy efficiency measures that are purchased through the OBF program. The utilities have indicated that a security interest will be pursued when warranted and determined on a case by case basis. Staff points out that the cost of perfecting a security interest may outweigh the money that could be recovered. The FI institution will most likely be involved in the decision of whether a security interest is appropriate and in actually obtaining the security interest. It appears that in most instances the utilities will not be obtaining a security interest.

The AG argues that the utilities should specify when and how the utilities will obtain a security interest. Further, the AG argues that at this point any costs that the utilities seek to recover for obtaining security interests should be disallowed as imprudent.

The Orders allow the utilities to work with the FI to determine this on a case by case basis. Further, any costs that are incurred can be recovered through the utilities' energy efficiency rider.

Taxes

The question here is whether the loan payments that customers make on their utility bills are subject to the Public Utility Fund ("PUF") Tax. This tax is applied to utilities' gross revenues. The definition of gross revenue excludes electric service, so only the loan payments made on gas utility bills are at issue. The attached Orders find that the PUF tax does not apply.

Ameren's Calculation of Eligible Measures

Specific to only Ameren, the attached Order directs that Ameren alter its method of calculating eligible measures. Specifically, the Order directs that a customer's down payment be included in the cost to implement a measure, consistent with the other utilities, when determining the eligibility of a measure.

Ameren, in its Brief on Exceptions, argues that the entire success of the program may rest on this decision. The Company argues that only duct insulation and sealing would remain eligible if the Proposed Order's decision stands. It appears that the Company bases this statement on its understanding that if the Proposed Order is not changed, then the Company would also have to include grants and rebates in the cost of the measure. This was not the ALJ's intent and the conclusion now states that it is the customer's total cost of implementation that must be weighed against the energy saved. This hopefully clarifies that grants and rebates do not count towards the customer's cost of implementation.

The AG agrees with the Company because it would limit the number of measures that would be eligible.

If the Commission disagrees, that entire section of the order can just be deleted because no party raised this issue.

Loan Origination Costs

Staff proposes that loan origination costs be charged to the individual customer purchasing the energy efficiency measure, rather than collected from all ratepayers pursuant to the utilities' energy efficiency rider. Other parties disagree because including the loan origination fees greatly reduces the number of measures that would be eligible. This reasoning also applies to any costs that the utilities may incur in perfecting a security interest.

Pursuant to the statute, the Commission has discretion as to how these costs should be recovered. Due to the concerns that very few measures will be eligible, the Orders direct that these costs may be recovered as program costs through the energy efficiency riders of the utilities.

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